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UNITED STATES OF AMERICA

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NATIONAL LABOR RELATIONS BOARD

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REGION 21

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2 SISTERS FOOD GROUP, INC.

) Case. 21-CA-38915

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Employer

) 21-CA-38932

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and

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UNITED FOOD AND COMMERCIAL  
15 WORKERS INTERNATIONAL UNION,  
LOCAL 1167

) **EXCEPTIONS TO THE  
ADMINISTRATIVE LAW JUDGE'S  
DECISION**

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Charging Party/Petitioner

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2 SISTERS FOOD GROUP, INC.

) Case 21-RC-21137

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Employer

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and

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UNITED FOOD AND COMMERCIAL  
22 WORKERS INTERNATIONAL UNION,  
LOCAL 1167

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Charging Party/Petitioner

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## EXCEPTIONS

No.	Page Reference To Decision	Exceptions
1.	2:20-22	To the failure of Administrative Law Judge (“ALJ”) to find that 2 Sisters is a subsidiary and a wholly owned subsidiary of a British corporation.
2.	2, fn. 2	To the failure of ALJ to find that the election results were extremely close for purposes of determining whether a new election should be directed. With the revised tally the results were within a few votes of a union victory.
3.	3:27-29	To the failure of ALJ to note that the settlement of the prior case did not contain a non-admissions clause.
4.	3, fn. 4	To the failure of ALJ to admit the materials into the record.
5.	4:11-13	To the direction of the ALJ that counsel not refer to these union busters as union busters, but rather insist that they be referred to as “consultants.” They should be referred to as union busters or “Section 7 saboteurs.”
6.	6:5-14	To the suggestion that this is a quotation; it is the ALJ’s analysis.
7.	6:8-10	To the specific finding that Ms. Trespalacios “delivers four firmer touches or nudges . . .”
8.	6:14-15	To the finding that Ms. Trespalacios appeared to “bump Ms. Flores’ shoulder and to jog her slightly.” Ms. Trespalacios did not touch Ms. Flores.
9.	6:27-31	To the translation. Ms. Reilly knew that the statement said that only Ms. Trespalacios was going to have her ass kicked out of the plant, there was no suggestion there was an assault or threat of any assault.
10.	6	To the failure of ALJ to find that Ms. Trespalacios was engaged in union protected activity when the alleged incident occurred.
11.	7:15-17	To the suggestion Ms. Flores claimed that there was a threat of an assault; Ms. Flores’ statement confirmed that the statement had only to do with whether Ms. Flores would continue working in the plant after the election.
12.	7	To the failure of ALJ to consider the video version offered by the Union and the failure of the ALJ to admit it as an exhibit. To the failure of the ALJ to admit the tape to prove that there was no assault.
13.	8:1-10	To the failure of ALJ to find that the Section 7 saboteur approved and assisted Ms. Reilly in writing the script. To the failure of the ALJ to recommend that the illegal conduct of the saboteur be the subject of an appropriate remedy.
14.	8:13	To the failure of ALJ to find that Ms. Reilly talked to the attorney, Mr. Rodriguez, on the weekend about firing Ms. Trespalacios and presenting the termination to employees. Additionally to the failure of ALJ that Ms. Reilly committed perjury.
15.	9, Part C(1)	To the failure of ALJ to analyze this to determine whether

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		the conduct actually occurred in light of the fact that it occurred during union activity.
16.	10:1-11:31	To the failure of ALJ to find that all these rules were irrebuttably or presumptively illegal.
17.	10:1-11:31	To the failure of ALJ to find that all these rules could reasonably be interpreted or read by employees to interfere with or sabotage Section 7 activities and were thus unlawful.
18.	11:35-41	To the failure of ALJ to find there was direct evidence of employer animus towards Ms. Trespalacios and her union activity.
19.	11:44-12:5	To the failure of ALJ to consider the Union's version of the video which shows the conduct more clearly.
20.	11:44-12:5	To the failure of ALJ to rely exclusive on what Ms. Reilly saw rather than what was on the better version of the video offered by the Charging Party.
21.	11:44-12:5	To the suggestion of ALJ that the conduct on the footage is "at best susceptible to interpretations . . ." It is susceptible only to the interpretation there is no improper conduct.
22.	11:34-13:29	To the failure of ALJ to find that Ms. Trespalacios' conduct was consistent with her normal pattern of touching or nudging people when she talked with them.
23.	11:34-13:29	To the failure of ALJ to find that Ms. Reilly did consult with her lawyer and that Ms. Reilly perjured herself about this.
24.	12:25-37	To the failure of ALJ to find that there was no violence by Union supporters contrary to the claim of Ms. Reilly.
25.	11:34-13:31	To the failure of ALJ to find that the scripted statement and presentation of the video to the employees violated Section 8(a)(1).
26.	14:20-24	To the failure of ALJ to find that the objection should be sustained. The employees had no way of knowing that the Union busters were lying about who had caused the bankruptcy.
27.	15:1-24	To the failure of ALJ to find that holding at least four Union supporters hostage for at least 30 minutes when they came to vote did not constitute unlawful singling out of Union supporters publicly and insulting them.
28.	15:25-44	To the failure of ALJ to sustain these objections.
29.	15:25-44	To the failure of ALJ to find that management asked an employee to pass out t-shirts and beanies on the day of the election and that she passed them out both in the cafeteria and to employees when they picked up other clothing to wear in the plant.
30.	15:47-16:18	To the failure of ALJ to sustain objections 13 and 45.
31.	16:8-18	To the failure of ALJ to state that <i>Delta Brands</i> should be overruled and that the maintenance of unlawful rules presumptively interferes with laboratory conditions. To the failure of the ALJ to recognize that Chairman Liebman's

No.	Page Reference To Decision	Exceptions
		dissent in Delta Brands is a correct statement of the law and should be adopted.
32.	16:9-18	To the failure of ALJ to find that employees did not engage in activity in violation of these rules because the rules were effective and the employees understood that such conduct would result in discipline.
33.	16:44-17:20	To the failure of ALJ to sustain objections 33 and 47.
34.	17:6-19	To the failure of ALJ to find that the security guard and the company lawyer were involved in the efforts to delay employees in their right to vote.
35.	17:40-18:26	To the failure of ALJ to sustain objections 15, 16, 34 and 43.
36.	18:22-25	To the failure of ALJ to find the security guards did question employees and delayed employees from voting. To the failure of the ALJ to recommend that their conduct be referred to the OLMS to require filing of an LM 20 and 21 as persuaders.
37.	18:12-13	To the finding that it was not unwarranted for extra security guards to be present on the day of the election.
38.	18:29-19:19	To the failure of ALJ to find that the group meetings held within the 24 hour were not captive audience speeches.
39.	18:29-19:19	To the failure of ALJ to find that the captive audience meeting held by Ms. Reilly was not unlawful captive audience meetings.
40.	19:20-20:2	To the failure of ALJ to sustain objection 25.
41.	20:4-28	To the failure of ALJ to sustain objections 29, 31 and 49. To the failure of ALJ to find them that the prior unfair labor practices did not interfere with employees' free choice.
42.	20:36-48	To the failure of ALJ to find that as a matter of Board procedure, Union representatives should be allowed to ensure that there is no interference with the right to vote by touring the areas in the plant where employees will be traveling to the election area.
43.	21:1-30	To the failure of ALJ to sustain objection 53.
44.	21:1-30	To the failure of ALJ to find that it is presumptively objectionable to maintain security cameras on during the period of election which security cameras show and records who votes and who does not vote.
45.	21:30-45	To the failure of ALJ to find that the Board agent misconduct interfered with the election.
46.	21:47-22:3	To the failure of ALJ to recommend that the Lufkin Rule Notice be posted on the company's intranet.
47.	23:14-24:15	To the failure of ALJ to direct that interest be paid to Ms. Trespalacios on a daily compounded basis.
48.	24:1-15	To the failure of ALJ to require that any notice be posted on the company's intranet.
49.	24:1-15	To the failure of ALJ to require that any notice be read to the

No.	Page Reference To Decision	Exceptions
		employees in the same manner at least that Ms. Reilly read her speech when she terminated Ms. Trespalacios.
50.	23:14-24:15	To the failure of ALJ to recommend that Ms. Reilly's perjury be referred to United States Attorney for prosecution.
51.	23:14-24:15	To the failure of ALJ to recommend that this misconduct be reported to the International Labor Organization.
52.	23:14-24:15	To the failure of ALJ to request this matter be referred to the Office of Labor Management Standards to ensure that the Section 7 saboteurs and Eric Rodriguez file their LM 20 and 21 filings and that the employer file the LM 10 report.
53.	23:14-24:15	To the failure of ALJ to recommend that the Board refer this matter to the ILO to determine whether United States laws are adequate under the terms of IL Conventions 87 and 98.
54.	23:14-24:15	To the failure of the ALJ to order that any election be conducted by some procedure other than in-person manual balloting in the employers location. The Board should adopt the suggestions of Ben Sachs in Enabling Employee Choice: A Structural Approach to the Rules of Union Organizing"; 123 Harv. L. Rev 655 (2010).
55.	23:14-24:15	To the failure of ALJ to find that any future election should not be conducted on the employer's site.
56.	23:14-24:15	The Notice should contain a hyperlink to the Board's decision and/or provide the website where the decision and order can be read and downloaded by employees.
57.	21:48-22:20	The Lufkin Notice should be posted on the company's intranet.
58.	23:14-24:15	Because the employer sabotaged employees of their section rights, they should be allowed as a remedy to take home as much food as they want for the same period from when the sabotage began until when it is completely remedied. The employees should be limited only to taking home as much as they can carry each day.
59.	22:5-20	To the inadequacy of the Notice
60.	22:40-24:15	To the inadequacy of the Remedy
61.	passim	To the failure of the National Labor Relations Act
62.	23:14-24:15	To the failure of the ALJ to refer this matter to the International War Crimes tribunal for prosecution against 2 Sisters and its employees for war crimes against workers.

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Dated: July 26, 2010

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

By: /s/ David A. Rosenfeld  
DAVID A. ROSENFELD  
Attorneys for Charging Party

124365/579617

**PROOF OF SERVICE**  
(CCP 1013)

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501-1091. On July 26, 2010, I served upon the following parties in this action:

Alan R. Berkowitz  
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Irma Hernandez  
Jean Libby  
National Labor Relations Board,  
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Los Angeles, CA 90017-5449  
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copies of the document(s) described as:

EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

**BY EMAIL**

**BY FACSIMILE** I caused to be transmitted each document listed herein via the fax number(s) listed above or on the attached service list.

**BY MAIL** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

I certify under penalty of perjury that the above is true and correct. Executed at Alameda, California, on July 26, 2010.

/s/Katrina Shaw  
Katrina Shaw